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COMMITTEE ON EDUCATION
February 15, 2005
LB 142, 145, 304, 717

The Committee on Education met at 1:30 p.m. on Tuesday, February 15, 2005, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 142, LB 145, LB 304, and LB 717. Senators present: Ron Raikes, Chairperson; Dennis Byars, Vice Chairperson; Patrick Bourne; Gwen Howard; Gail Kopplin; Vickie McDonald; Ed Schrock; and Elaine Stuhr. Senators absent: None.

SENATOR RAIKES: Welcome to this hearing of the Education Committee of the Nebraska Legislature. We're sorry or we're pleased that all of you showed up today. I think we can say we've worn them down, and I don't blame you a bit. I feel the same way. We have four bills only to attend to today, and we will do those it looks like in numerical order and also in the order that they are listed on the outside of the hearing room door. Let me remind you that our committee consists of Senator Bourne from Omaha; Senator Gail Kopplin from Gretna; Senator Elaine Stuhr from Bradshaw; our legal counsel is Tammy Barry; I am Ron Raikes, District 25; Senator Dennis Byars is our committee's Vice Chair; Senator Vickie McDonald from St. Paul is on the committee, as is Senator Gwen Howard from Omaha, who is just now arriving; and Senator Ed Schrock from Elm Creek. And then we have our transient worker committee clerk, LaRue Wunderlich, back with us today. We'll use the lights I think today, giving the massive crowd, we'll probably go back to five minutes on the lights because I think we can have a little more time and get through all the testimony. But we will use the lights nonetheless. It's our habit and it's very hard for us to break habit, as you may have noticed. We'll have each bill introduced, followed by proponent testimony, opponent testimony, neutral testimony, and then potentially a close by the introducer. If you have a cell phone, please turn that off. As you begin your testimony or before or after, please fill out one of the little forms and stick it in the box. Begin your testimony by stating your name and spelling your last name if you would, please. So with those preliminaries, let's move to the agenda for the day. First is LB 142 introduced by Senator Price. Welcome back.

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SENATOR PRICE: Good afternoon, Chairman Raikes and members of the Education Committee. For the record, I am Senator Marian Price, that's M-a-r-i-a-n P-r-i-c-e. I represent the 26th Legislative District and I'm the primary introducer, principal introducer of LB 142. LB 142 provides a way to fund a safety and security measures for students, staff, and visitors within schools. These funds would be provided through the Qualified Capital Purpose Undertaking Fund. This bill does not expand a district's taxing authority and it has no fiscal impact on TEEOSA funding. LB 142 simply expands the use of the five and one-fifth cents per \$100 of taxable valuation currently available by schools' districts. The safety and security of our school buildings have become a primary concern in recent years. LB 142 provides a way for districts to address this need within an existing funding structure. I thank you for your time. There will be testifiers that will follow me and explain more, but I would be willing to answer questions at this time. But I'm sure the testifiers behind me who have firsthand experience can answer your questions.

SENATOR RAIKES: So you are willing to take questions...

SENATOR PRICE: Yes.

SENATOR RAIKES: ...but you'd just as soon shield off if you could.

SENATOR PRICE: Yes.

SENATOR RAIKES: Okay, that's...

SENATOR PRICE: I may defer them to the people that follow me, sir.

SENATOR RAIKES: All right, all right, that's certainly understandable. Are there any questions? Ah, you didn't escape, Senator. Senator Kopplin.

SENATOR KOPPLIN: Well, this is an easy one maybe. I was just wondering when the original bill was passed, do you know, the 5.2 cents?

SENATOR PRICE: I would hope that possibly people in the

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school district can tell you, sir. I do not have that information. If they don't, we will have that information available to you.

SENATOR KOPPLIN: Well, I was just curious because this is one I missed some time or another if it was in long enough.

SENATOR PRICE: That I do not know, but...

SENATOR RAIKES: All right, we'll see if we can...

SENATOR PRICE: ...and I will be here to close.

SENATOR RAIKES: Good, good, thank you. Thank you, Senator Price. We'll move to proponent testimony, proponents for LB 142.

VIRGIL HORNE: Senator Raikes, members of the committee, my name is Virgil Horne, spelled H-o-r-n-e, representing the Lincoln Public Schools. Senator Kopplin, back in 1983 this Legislature passed a bill dealing with abatement of asbestos. For some in the audience, that's the material that we used to use a long time ago (laugh), excuse me, Senator. This is the same fund, and I've never understood how they came up with that name, but I'm sure that Mr. Kemper could tell me about that later on, that we've talked to you about previously. We're simply expanding the use of the fund. The 5.2 cents stays the same. It's not an expansion. Safety and security, I'm not going to go into a long dissertation, but it's very obvious that every school district in the state has to be concerned about it, not only from the practical standpoint but also by Rule 10. If you'll recall a couple of years ago, we had a very adamant person on State Board of Education, she really pushed the issue that ironically she was also a consultant for the same type of business, to have this required of all schools in the state, that there be a safety audit. The concept was sold on the fact that it could be done for free because you could just simply ask other people to come in and do your school district. Amazingly, that's not always been the case, especially in the larger school districts. We think this bill would serve an excellent purpose in providing school districts an opportunity to address the issues that need to be addressed in an appropriate fashion. It does not increase the tax asking and would go a long way to help us

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accomplish what we need to get done. Thank you.

SENATOR KOPPLIN: Thank you.

SENATOR RAIKES: Thank you, Virgil. Questions? Virgil, if you would, you mentioned 1983, could it possibly have been that the discussion in 1983 was that, look, we're...we've been made aware recently that asbestos is really a problem and it's something that we hadn't anticipated before now and so we need to take a more or less emergency measure and that's sort of what this is--this is bonding authority that doesn't involve the...a vote of the people. But I can assure you that as soon as the asbestos issue is dealt with this bonding authority will go away.

VIRGIL HORNE: I think, Senator, we probably said everything you said except that that last part they probably said, you know, there will probably always be things like this that school districts will be forced to look up on.

SENATOR RAIKES: You think they were as creative and imaginative as you are.

VIRGIL HORNE: I think they probably were, sir. (Laugh)

SENATOR RAIKES: Well, it is the case, would you not agree? It seems wasn't it not too long ago that we added mold abatement...

VIRGIL HORNE: That's correct.

SENATOR RAIKES: ...to this list?

VIRGIL HORNE: Yes, that was last year.

SENATOR RAIKES: So now in your experience, and you may not know this, are some of the original accessibility barrier, well, mold and asbestos, are those issues that are largely taken care of at this point?

VIRGIL HORNE: No, because speaking from my experience with the Lincoln Public Schools, we continue to have those kinds of issues occur because as we continue to look at...as we continue to get the money to redo things to get better efficiency for heat and things of that nature, that the

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whole issue of mold comes up. So it will eventually go away because, obviously, as those things go away then we can use that 5.2 cents for other things. But as I understand it from talking with other GNSA, excuse me, Greater Nebraska Schools Association schools, and also with some of the NRCSA schools that there's a lot of schools who are still in the processes of looking at those issues and doing some remodeling to adjust to current kinds of problems.

SENATOR RAIKES: Okay. Thank you, Virg.

VIRGIL HORNE: You bet.

SENATOR RAIKES: Other proponents, LB 142?

AL INZERELLO: Senator Raikes, members of the committee, Al Inzerello, I-n-z-e-r-e-l-l-o, Westside Community Schools, and I just also like to add our support for the bill for the reasons cited by Lincoln Public as well. But I would add that, again, proponents for this bill are testifying before the Education Committee with...you know, talking about the need for some exclusion dealing with facilities. And again, it's another exemption that we're asking for. And I would ask the committee again to, if they could, maybe look at the broader issue in should we be still looking year after year at these exemptions that could fit into this issue. Now we support the issue because it may be the only option school districts have. But I'd submit also to you that it doesn't make sense for the public to try to borrow money through the bonding process for something that could be done as a pay-as-you-go. So I would offer the idea of just the straight levy exclusion or the separate building fund to accommodate these things without having to borrow the money to do it. With some school districts, let's say it's financially advantageous to borrow \$100,000 to do this, but some school districts don't need \$100,000, you know. But to camera a high school, or to, you know, respond to a level of concern from the community, they're going to need to spend some unanticipated money. The argument with the mold issue is very...and excellent question, Senator, because sometimes these issues come out of nowhere, totally unanticipated--an accident in a building, an unforeseen mold problem that was, you know, uncovered after a number of years of...and then all of a sudden you're looking at a \$100,000 bill that you never saw coming. So, you know, I guess what I, you know,

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to close my comments here, this is another indication of schools needing some additional authority to deal with their facility issues. But I, you know, and if this is the only way to do it that makes sense in the wisdom of the Legislature, fine. But I would suggest to the committee we look at the discussion. It would not force schools to borrow the money through a bonding process to do this and to just have the authority to do it and maybe for these same purposes. With that, I'll close. Thank you.

SENATOR RAIKES: Okay. Senator Kopplin.

SENATOR KOPPLIN: So you're suggesting if a building fund was outside the lid or a portion of this, you wouldn't need this.

AL INZERELLO: Well, I'm suggesting, for example, the 5.2 cents, if that were put in a building fund, in those circumstances, and again, I'm looking at it from a business manager's perspective quite honestly, if I could not borrow the money, it would save money in terms of the expenditure of the project. Okay? But again, you know, in situations where schools are required, either by the community they serve or a mandate by the fire marshal, which was, you know, put in with the mold issue last year, Senator, you know, where it's a requirement they have to do it and boards have to expend the money, does it make and offer a little more flexibility for school districts not to have to borrow money through a bonding process and just do it as pay-as-you-go?

SENATOR KOPPLIN: Of course, you could go to a vote and extend your...

AL INZERELLO: Right, if you want to go 16 years on something, sure, you know. But, you know, in many cases that doesn't make a lot of long-term business sense either so. Okay, I understand.

SENATOR RAIKES: I'm a little behind you guys on this discussion. You...is it this 5.2 cents you cannot use that as a sinking fund?

AL INZERELLO: You can but you'd essentially, as I understand it, Senator, you actually have to use the bonding process. These bonds, you have to borrow the money and then

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you can use that, within that 5.2 cents to raise the money to pay the bonds back without a vote of the people. Okay.

SENATOR RAIKES: So in other words, you can't just use the 5.2 cents and say we're going to create a fund that we're...

AL INZERELLO: Right.

SENATOR RAIKES: ...and then eventually use.

AL INZERELLO: Right. I, for example, in my school district I couldn't say, let's say I've got a \$50,000 project for mold and security cameras in our elementary schools and say it's \$150,000. For us, that's about, well, that's about three-quarters of a cent let's say in the levy, I couldn't levy just three-quarters of a cent just to do that project. I would have to, you know, essentially get bonds to complete that project and then pay it back.

SENATOR RAIKES: So...

AL INZERELLO: And use that same levy.

SENATOR RAIKES: ...you would, and maybe this is not possible, you would favor an amendment that says, that gave you more flexibility in using this money? You didn't say that, but I guess I'm asking you...

AL INZERELLO: Right, correct, Senator, I would.

SENATOR RAIKES: ...if you would, although what you would have to do then is just say that routinely we're going to levy a cent or whatever might be appropriate and we don't have a use for it right now, but we're sure that down the road we will so the sinking fund idea.

AL INZERELLO: And I'm sure some districts would do that. We would, in my school or at least speaking for myself, we would not do that. We would do a pay-as-you-go. If we only needed to put a hundred, \$200,000 in that fund to do \$200,000 worth of projects in a given year, that's all we would levy for.

SENATOR RAIKES: But then you have no cushion in the event of the surprise.

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AL INZERELLO: Right, that's correct. That's correct. But at least we'd be able to take care of it as pay-as-you-go without having to borrow money to do it the following year.

SENATOR RAIKES: Okay. So you would like either...well, you would simply like to be able to levy the money without having to bond it.

AL INZERELLO: Right, correct.

SENATOR RAIKES: Okay, thank you.

AL INZERELLO: Sorry, it took me a long time to say that I guess.

SENATOR RAIKES: No, that's fine, thank you. Other proponents, LB 142? Milford.

MILFORD SMITH: My name is Milford Smith, M-i-l-f-o-r-d S-m-i-t-h. I'm representing the Nebraska Coalition for Educational Equity, and we are in favor of this bill. There are all types of unforeseen accidents, possibilities that do exist. Three or four years ago in a consolidated district that had just completely remodeled two new schools, one at Diller and one at Odell, we discovered an odor in the Diller Public or the Diller facilities. And upon investigation, we found that, like many of the older schools that exist, water pipes and heat pipes ran through tunnels underneath the foundations and all of these under the school and it developed a leak creating a mold problem which seemed relatively simple at the time, until we found out it involved calling in EPA people, pumping out about three inches of water in this tunnel, doing a quality air testing, releasing school for three days while they were working, all of this costs money. And if this were in place, we could have had a building fund or a sinking fund, as this bill would provide. You asked the question if you thought some schools would do it, given the condition of many of the rural schools which our organization represents, I think that they would probably levy a fund in preparation for either security measures or some of these repair things that pop up like this example I just gave you. So we are definitely in favor of it.

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SENATOR RAIKES: Okay, thank you, Milford. Questions? Would you say, Milford, that safety and security would be a top priority in the schools you...

MILFORD SMITH: That would be...that would be a major priority given the social conditions that we are now undergoing. Many, many schools do not have security lighting. I just noticed where some of them are switching from keys issued to people rather like using the credit card thing so that they're easier to change and they don't have to change the entire lock systems. Diller-Odell School just recently installed a lot of outside cameras that can be viewed in the office for security purposes, seeing who's coming and going and what students are going out and so forth. Those would all be security issues that could possibly come under this.

SENATOR RAIKES: Okay. Thank you, Milford. Other proponents, LB 142?

JOHN BONAIUTO: Senator Raikes, members of the committee, John Bonaiuto, B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards. We would add our support to this measure. School boards talk about the need for flexibility in dealing with building issues, and safety measures surely fall under that category. I spent a painful afternoon in Revenue asking for exclusions outside the lid which translate into property tax increases, and a lot of that discussion was just to keep the issue before the committee that school districts and school boards feel that their budgets are very tight. And any flexibility and creativity in dealing with facilities and facility needs is greatly appreciated. And we're very aware of raising...the concern about raising property taxes. But the need is there. And one of the things that boards lost when we were looking for property tax relief was a separate building fund. And I always like to remind the committee, whether it's Revenue or Education, even though that you know this, but it's important for us to keep the issue in front of you that putting building issues in the general operating budget puts that in competition with learning and instruction and staff and kids. And anytime you put brick and mortar in competition with those things, the facility needs are going to come in second, third, fourth, fifth, unless it's a health and safety issue. So your consideration would be

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greatly appreciated on this measure. Thank you.

SENATOR RAIKES: Thank you, John. Questions? Thanks.

JOHN BONAIUTO: Thank you.

SENATOR RAIKES: Other proponents to LB 142? Matt.

MATT BLOMSTEDT: I am Matt Blomstedt, the director of the Nebraska Rural Community Schools Association. My name is M-a-t-t, last name Blomstedt, B-l-o-m-s-t-e-d-t. I forgot once so I thought I'd make sure, make a point of spelling it. I'm here basically to support the concept of the bill. And like the other people have talked about, I think there's maybe a little more general approach to looking at some type of exclusion or ability to work on building fund. Our legislative committee met last October and one of our priorities was looking at, you know, maintenance and making sure that we can take care of buildings that we have. Obviously safety issues come into play. And as I look at it, I think, again, maybe kind of piling on, but the concept basically of expanding our ability to do things outside of the lid for any type of building issue is very important to rural schools in the state.

SENATOR RAIKES: Thank you, Matt.

MATT BLOMSTEDT: You bet.

SENATOR RAIKES: Questions? Thanks. Proponents again, LB 142? Any opponent testimony? Neutral testimony? Russ, you look entirely too comfortable over there.

RUSS INBODY: Yes, sir. I am Russ Inbody with Nebraska Department of Education, that's spelled I-n-b-o-d-y, and I'd be glad to respond to any questions that Senator Raikes or any member of the committee would have.

SENATOR RAIKES: Questions? No, there's no questions, Russ. (Laughter) Can this money be used...the question came up about whether or not you had to use this in a bonding manner. Is that the case?

RUSS INBODY: Well, I think the issue is the way the Qualified Capital Purpose Undertaking Fund works, and I'd be

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glad to explain how that name came about, but that's not the question, is it's limited to 5.2 cents per \$100 valuation for that fund. There's provisions in the statutes that allow school districts to issue bonds without a vote of the people to do these projects. What would be outside the levy limitation would be the repayment of the bond principal and interest. If they just levy the 5.2 cents to do the project, that is not outside the levy limit.

SENATOR RAIKES: Oh, okay. I'm glad you explained that. So that's the reason it has to be bonded. You can't just levy 5.2 cents and put it in a kitty and...

RUSS INBODY: Right. The levy limitation specifically excludes bonded indebtedness. So if you have bonded indebtedness, it's outside the levy limitation. And the 5.2 cents, and as other testifiers have indicated, the 14 cents that is the limit on the special building fund all three of...the General Fund, the Qualified Purpose Undertaking Fund, and the Special Building Fund all are under the \$1.05 levy limitation.

SENATOR RAIKES: Well, and the one in this bill is the Qualified...

RUSS INBODY: ...Capital Purpose Undertaking Fund.

SENATOR RAIKES: Right. But I think you just said that if you bond for a project meeting this, then the repayment of bonds is not.

RUSS INBODY: That's correct, that's correct.

SENATOR RAIKES: Okay. So isn't it the case that if you, say, if we added a phrase here...this particularly talks about safety and security of students or if you added a phrase "or any other project a visionary superintendent might come up with" wouldn't this in effect be putting 5.2 cents of levy authority for buildings outside the levy lid?

RUSS INBODY: If they issue the bonds, not...for example, and I want to make this clear, for example, if you have a security, somebody mentioned security cameras. If you buy security cameras out of this fund, let's use that, security

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cameras out of this fund and you levy 3 cents, that is not outside the levy limit. The only way it would be outside the levy limit is if the board would vote to issue bonds to do the project and then the project is done and the repayment of the bond principal and interest would be outside the levy limit. Now they wouldn't have to levy any funds to do the project because they've got the bond proceeds to do the work.

SENATOR RAIKES: Okay. Any other questions for...very helpful. Thank you very much, Russ.

RUSS INBODY: You're welcome.

SENATOR RAIKES: Okay. Any other neutral testimony? Senator Price.

SENATOR PRICE: Senator Raikes and members of the committee, I hope the information that's provided to you on LB 142 is helpful in assisting you to make your decision.

SENATOR RAIKES: Okay, thank you, Senator. Thank you for being here. I guess maybe you're not getting away quickly. Any questions for Senator Price? If not, that will close the hearing on LB 142 and we'll move to LB 145 to be introduced by Senator Price.

LB 145

SENATOR PRICE: Good afternoon. For the record, I am Senator Marian Price, M-a-r-i-a-n P-r-i-c-e, and I represent the 26th Legislative District. And I'm the primary introducer of LB 145. As you are aware, the Tax Equity and Educational Opportunities Support Act, known as TEEOSA, is based on the premise that funds available to school districts should not be solely based on each district's property tax base. LB 145 is also based on this premise. LB 145 creates a state financing system for school districts to retire bonded indebtedness. This bill seeks to provide equalization by taking into consideration the needs and resources of school districts relative to their bonded indebtedness. Just a few facts here. Under LB 145, school districts would apply to the Department of Education for state assistance in paying their regularly scheduled debt

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retirement payments. An assistance factor is calculated by comparing the district's adjusted valuation per student to the statewide average. This factor of 40 percent, 20 percent, or zero is then multiplied by the district's scheduled debt retirement payments for the year to calculate the state aid for the year. There will be people that will follow me that will explain that even more detailed. LB 145 is another way to provide equalization into education finance. I hope you will carefully consider the merits of this bill as the testifiers present them to you. I thank you for your time, and there will be testifiers that follow that will provide you information.

SENATOR RAIKES: Okay, thank you, Senator. Questions? I don't see any, thanks.

SENATOR PRICE: Thank you.

SENATOR RAIKES: Proponents for LB 145.

TIM KEMPER: Chairperson Raikes and members of the committee, my name is Tim Kemper, T-i-m K-e-m-p-e-r. I'm the director of finance for Lincoln Public Schools. Our interest in this bill goes back quite a few years and, in fact, the bill has been introduced before the body before. And it seeks to address kind of a longstanding conundrum in that, as Senator Price said, it has for almost 15 years now been the standing policy of the state that the operating funds available to educate children in our schools should not be solely a function of the property tax base in those schools. And what I'm getting at is the whole concept of equalization aid says we get resources from where they are and put them where they're needed. However, we continue to have a system in Nebraska that almost exclusively provides for the funding of school facilities, whether it be through the issuance of general obligation bonds for new construction, whether it be for the type of limited tax obligation bonds that you were just discussing for abatement...hazardous materials abatement and accessibility barrier removal and so on, for virtually all of those purposes, including the special building fund, virtually the only source of revenue is property taxes. And, therefore, those districts with a higher than average valuation base per student are better situated to meet those needs. A number of years ago we were seeking a way to help fund

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facilities in school districts that, among other things, didn't compete for funds with TEEOSA. Because back in those days, the variable in the state aid formula was the local effort rate. So any money that we would have taken out of TEEOSA to put into some kind of a facilities aid program would have simply raised the implicit local effort for property taxes on operations across the state, and that wasn't deemed to be very popular. The concept is simple. If you were an average valuation per student district, and I would note we're using adjusted value, so as to avoid providing a windfall for localities that are underassessed, but if you're an average valuation per student district, you would receive 20 percent of your debt service requirement each year in the form of state aid. If you had less value, you'd receive more support. If you had more value, you would receive less support. And in fact, if you were more than double the state average valuation per student or adjusted valuation per student, you would receive no state support at all. One thing that is kind of unique about being here is I'm not here asking for a new levy limit exemption, which is kind of a nice position to be in. In fact, what we're asking is for the Legislature to consider lessening the effect on property taxpayers of an existing levy limit exemption, which is the one on general obligation bonded indebtedness, which has been in place since the levy limits were enacted. Finally, I just want to make one note. In the draft bill, there's a line that I want to elaborate on a little bit and that is the intent of the legislation would be to minimize the adverse effect on the General Fund state aid equalization process embodied in the Tax Equity and Educational Opportunities Support Act. As I said, at the time that this was first being discussed, we didn't want to put it in competition with TEEOSA for operating revenues. So one of the concepts that is nice about bond aid is, let me just real briefly if we have time, talk about the process as I would understand it. A school district would still have a bond election just as they do now. They would still be obligating their district to the repayment of all of that debt, just as they are now. That debt would become a lien on real property, just as it is now. What would be different is if state funds were available to do it, school districts would receive equalized state support to help them retire that debt over the life of its debt. And the reason I mention that is we would submit that this might be a use for soft money, and I use that term in single quotes, but

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money such as the lottery money which, as you as an Education Committee know, K-12 districts used to get a fair amount of that money. And in this particular fiscal year, K-12 districts are receiving no direct support from lottery money. Money like that that can come and go we think might be well used in a program like this where if the money is not available, school districts are no worse off than they were before. They're paying off their bonded obligation just like they are now. On the other hand, if the state can provide an equalized support to do that, it will be a step forward in something that the state has never really addressed in my experience, and that is equalized support for facilities. So with that, I'd be glad to answer questions.

SENATOR RAIKES: Okay, thank you, Tim. Senator Kopplin.

SENATOR KOPPLIN: As I understand this, only those districts that have less than the state average valuation per student would be able to use this?

TIM KEMPER: Well, no. My understanding is only those districts that have less than twice the state aid average would be able to use this. However, as you went over the state average valuation per student, the percentage of assistance you would get would be less and less. And again, it's a simple, it's a very simplified equalization concept. The more resources you already have available locally to retire that debt the less state assistance you need and vice versa.

SENATOR RAIKES: Okay. Other questions? The process of a school district going to its voters and asking for approval of a bond without this and then with it. I think I know kind of how it works without this. How would this change it?

TIM KEMPER: Well, that's an excellent question, Senator, and it would depend upon the degree to which the district was comfortable telling their voters that they could count on this assistance. And one of the things that I...one of the reasons I used the term "soft money" which is one I wouldn't probably seek to or choose to use very often, is I think it would be incumbent upon the school districts proposing general obligation bonds to make clear to their

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voters that the liability for those bonds still resides with the school district and still, as I said, is a lien on the property of the taxpayers in that district. However, if a program like this were in place and had been in place for a while and there was a commitment on the part of the state to providing equalized support for the retirement of bonds, then I think those districts that have very low valuations per pupil would have a better opportunity, a better chance of passing a bond issue when their taxpayers know that they wouldn't have to pay the full load and at a rate higher than would be true in a district that, for a comparable facility, has a lot more valuation per student.

SENATOR RAIKES: Okay. One other question I'll pursue with you. Suppose you have two school districts that, for whatever reason, are pondering the prospect of merging or consolidation. And both sort of decide at the same time the best way to win in the consolidation battle is to build a school building. And both agree to do that with their local voters. They don't agree with each other, but their...

TIM KEMPER: I understand.

SENATOR RAIKES: So under this arrangement the state would, providing they were similarly situated as far as valuation per student, they would join in and help pay for this building spree.

TIM KEMPER: (Laugh).

SENATOR RAIKES: I wasn't trying to slant this at all.

TIM KEMPER: I was doing really good with the question till the last word. No, I understand what you're saying, Senator, and, in fact, again I plead the Fifth a little bit from the standpoint that this proposal was drafted a number of years ago before the concept of something like a certificate of need had even been discussed in a meaningful way for school districts. But this may be your segue into the next bill, but certainly speaking only for Lincoln Public Schools, we recognize that if the state wants to be involved in funding local facilities it is unreasonable for us to ask you to do that without having some say in what facilities really need to be built. And so could this proposal have a certificate of need tied to it that you

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wouldn't be eligible for this aid absent that certification process? I certainly think it could.

SENATOR RAIKES: Okay. Thank you, Tim, appreciate your testimony.

TIM KEMPER: Thank you.

SENATOR RAIKES: Other proponents, LB 145?

MILFORD SMITH: Again, my name is Milford Smith, S-m-i-t-h, first name Milford, M-i-l-f-o-r-d. Our organization is speaking in favor of this mainly because in rural Nebraska there is a very wide disparity of property tax resources available to various districts. We like the provision of where if you are property poor, to use a quote of some of my members, that you would have some state funding to help you build needed facilities. And if you're property rich, you would have less money. We are also cognizant of the fact that the two bills coming up for discussion later on would probably have a certificate of need or something like that, much like many of our neighboring states do, such as Kansas. One of our concerns is that it would always be found that there was, according to Mr. Kemper, no soft money available so there's no funding this year. We would urge that there be considerable effort upon the legislative body to find at least some money to fund the majority of the needs that were going to be occurring over a period of time. We think it's a state obligation to at least help, not fund entirely, but at least help with some of the facility needs that are existing in the state of Nebraska. And there are a great number of facilities that do need repair, replacement, either through consolidation or enlargement of population, et cetera. So we wholeheartedly support this concept.

SENATOR RAIKES: Okay, thank you, Milford. Questions? Senator Kopplin and then Senator Stuhr.

SENATOR KOPPLIN: I was...we've heard lottery funds mentioned. Really, where would you see this fund coming from?

MILFORD SMITH: Well, if you want a candid answer, I think there are probably additional tax levies or it's even been suggested by some people maybe we'd ought to tax junk food,

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maybe a tax on cigarettes, maybe a tax on beer, perhaps elimination of some of the "loopholes" that may exist in taxes now. This would be a legislative prerogative to look at those things for funding.

SENATOR KOPPLIN: Okay.

SENATOR RAIKES: Senator Stuhr.

SENATOR STUHR: Yes. Actually the senator just took my question because I was looking at the fiscal note, and it appeared that from the 2004-05 it could be approximately \$61 million, the cost and so just wanted some ideas on where we might be able to obtain that. Thank you.

MILFORD SMITH: Okay.

SENATOR RAIKES: Again, thank you, Milford.

MILFORD SMITH: Thank you.

SENATOR RAIKES: Other proponents of LB 145? Okay, do we have opponents, LB 145? Neutral testimony, LB 145? Senator Price.

SENATOR PRICE: Senator Raikes, members of the committee, again I thank you for your attention to LB 145. And I thank the testifiers that followed me. And at this point, unless there's questions, I would close.

SENATOR RAIKES: Okay. Are there questions for Senator Price? I see none. Thank you very much for being here today.

SENATOR PRICE: Thank you, have a good afternoon.

SENATOR RAIKES: Okay, that will close the hearing on LB 145 and we'll move to LB 304 and Senator Schrock.

LB 304

SENATOR SCHROCK: Honorable Committee Chairman, Senator Raikes, and other honorable members of the Education Committee, for the record my name is Ed Schrock from the

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38th Legislative District. That's spelled S-c-h-r-o-c-k. And I intend to teach some people a lesson today. I was asked to carry this bill and so I think I can butcher up the introduction just enough that they'll never ask me to carry another bill. (Laughter) But I would also tell you that I neither oppose nor support the bill, but think that the issues raised by the bill deserve consideration by the committee in some form or another because they are addressing an issue that I think is of grave concern to a lot of school administrators, school board members, and citizens of the state of Nebraska. So we have a problem in this state and this would be one way of addressing it. I will read my prepared text, which is something I don't like to have done to me is somebody read to me. But anyway, LB 304 would create the Education Building Review Commission Act. While local school districts have traditionally opposed state level controls over their local spending decisions, some of them are recognizing that they are in a no-win situation when it comes to meeting their facility needs. When revenues are limited, the tendency is for a school district and other governmental entities to focus those limited resources on the day-to-day operations such as paying employees and putting off needed building improvements till some better time in the future. Some of our school districts have compelling building needs right now, but they recognize the Legislature's reluctance to authorize scarce tax resources to build or improve school facilities that may not be essential from a state policy standpoint. Accordingly, we propose LB 304, a newly created Education Buildings Review Commission would consist of seven members, including the Commissioner of Education or the commissioner's designee; three members would be appointed by the commissioner, and I question whether we could give the commissioner that authority; the remaining three would be appointed by the Governor and that would be...there's no doubt the Governor would have that authority. School districts would not be allowed to commence building projects costing more than \$500,000 or 10 percent of their operating budget, whichever is greater, without the approval of the commission. The commission would establish standards for approval of building projects as specified in the bill, which would generally seek to ensure that the building projects are necessary, feasible, efficient, and don't duplicate public facilities already available in the local area. With the commission's approval, school districts

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would be allowed to use the already existing special building fund with its longstanding 14 cent levy limitation outside the school district's levy limitation of \$1.05 currently in statute. In accordance with the Nebraska Department of Education regulations, this expanded levy authority could be used only to pay for projects authorized by the Education Buildings Review Commission. The result is that the school district would no longer find themselves in the position of pitting operational costs against facility costs when they are developing their budgets. At the same time, the Legislature would be assured that school districts are building and improving only facilities that make sense from a public policy standpoint. So as I read the bill, school districts, with the approval of this new commission, could levy up to 14 cents for building projects without going to the voters for an election. I believe that's the way I would read it. And this bill, I think, has some merit. I think it probably deserves to be discussed, and I hope that the person that asked me to carry the bill isn't sorry now. Questions?

SENATOR RAIKES: Thank you, Senator Schrock. Questions? I hate to see this group let you off but I think we did. Okay. Proponents to LB 304.

VIRGIL HORNE: Senator Raikes, members of the committee, my name is Virgil Horne, H-o-r-n-e, representing the Lincoln Public Schools and proud to say that I was one of the two people who approached Senator to introduce this bill for us. Senator Schrock was very gracious in doing that. I'm sure you're seeing a theme here. The only one you didn't see was the bill that went to the Revenue Committee which was Senator Thompson's bill which did not have the certificate of need aspects involved with it. It simply asked for the 14 cent building fund outside of the levy limits. We're practical. We understand that there's a concern that's already been raised by members of this committee earlier today on another issue as to how do you determine who is doing what to accomplish what and for what purposes? We need the money. We're ready to do what you tell us to do in order to get access to it. That's pretty much bottom line. Thank you.

SENATOR RAIKES: Okay, Virgil. Questions? Virgil, oh, excuse me, Ed, go ahead.

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SENATOR SCHROCK: I raised the issue of the Commissioner of Education appointing three members on this commission. Is there a problem there? Because I know when you create commissions and boards in this state, you've got to be pretty careful or you have problems and maybe the counsel can answer this, but I question whether the commissioner could appoint three of those members. It might have to all six be appointed by the Governor. What is your concerns?

VIRGIL HORNE: I'm sure. He's a constitutional officer. Does he have that ability? Is that the correct word, constitutional officer?

TAMMY BARRY: Yeah.

SENATOR SCHROCK: I don't know the answer, but...

SENATOR RAIKES: We'll have to study that one.

SENATOR SCHROCK: But it raised a question in my mind when I...

VIRGIL HORNE: Certainly. We would...I mean that's a very minor part as far as we're concerned.

SENATOR SCHROCK: I do think we could say...

VIRGIL HORNE: With his advisement or something like that.

SENATOR SCHROCK: ...that one of the members would be the Chairman of the Education Committee and the Chairman of the Appropriations Committee or something like that. I think you could designate certain individuals, but to have somebody else appoint...

VIRGIL HORNE: I understand.

SENATOR SCHROCK: ...people I think there might be some problems there. I could be wrong.

SENATOR RAIKES: Yes, Senator Kopplin.

SENATOR KOPPLIN: As I read this, the project would have to be, say, at least 10 percent of the total General Fund

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expenditures. So if you had a \$10 million budget, you have to have at least a million dollar project but it could be more?

VIRGIL HORNE: Yes.

SENATOR KOPPLIN: And I think, as Senator Schrock said, you wouldn't then have to have the vote of the people on that.

VIRGIL HORNE: And there was some concern. There was some concern about some minor kind of things that a district may want to do that they wouldn't want to go through this. But as in your case, you may recall when we had the 14 cent, that could be voted on by the board. And so there was the balance between what kind of a small project do you do in a facility to simply accomplish a small remodeling or something of that nature, and then what's considered a large project? And this was the happy medium that was reached on that. But the bottom line, as Senator Schrock indicated in his closing (sic), it would put the 14 cents outside the levy limit. And I, you know, if I were going to go on and on and on and on, I would go back to the whole idea that it is still the local people who are paying for it and it's the local voters who can get rid of those scoundrels who allow that levy to go up, if they so choose, by voting them off the board. It gets to be people who see a need and go along with it.

SENATOR RAIKES: Senator Bourne.

SENATOR BOURNE: Virgil, how would the local people be able to vote people off this commission?

VIRGIL HORNE: Not off the commission. All the commission does is approve the project, then the local board of education has to then, if it's approved by the commission, then the local board has the authority to levy the tax. And if the people don't like them levying the tax, then they get rid of them.

SENATOR BOURNE: Somehow that stuff, I didn't catch that stuff.

VIRGIL HORNE: No, I'm sorry.

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SENATOR BOURNE: If the commission...

VIRGIL HORNE: The local board can't do it until the commission approves it.

SENATOR BOURNE: The commission gives it its blessing, then it sends it back to the local board...

VIRGIL HORNE: To the local board.

SENATOR BOURNE: ...the board says...

VIRGIL HORNE: The board says, we're going to raise property taxes to do this. But if...and that's where the local people get in the option of saying, you can do that once but not again.

SENATOR BOURNE: Okay.

VIRGIL HORNE: But the way the bill is written, they would have...the local people would have no impact, well, I shouldn't say that, they had limited impact on the statewide because it's appointments.

SENATOR RAIKES: Senator Stuhr.

SENATOR STUHR: Yes. The 14 cents...

VIRGIL HORNE: It's currently in statute, only right now that falls under the \$1.05 lids.

SENATOR STUHR: Okay.

VIRGIL HORNE: And this would remove it from the \$1.05 lid, put it outside.

SENATOR STUHR: Okay.

VIRGIL HORNE: It essentially, if this bill were to pass, and there's people in the room that could correct me if I say this wrong, it would give boards the authority to increase their local levies by 14 cents for building fund purposes only. And that can't...listen very closely, gentlemen, that money cannot be used to supplement General Fund expenditures. So that it's not a way of doing that and

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putting it back in for other kind of General Fund expenditures. It can only be used for building fund purposes.

SENATOR RAIKES: Senator Schrock.

SENATOR SCHROCK: It might be helpful to me, Virgil, if you would tell us what the bonded indebtedness levy is for Lincoln Public Schools now.

VIRGIL HORNE: Senator, I would love to do that, but you know, I talk to you guys all the time; so I'm going to give Mr. Kemper the opportunity to present again today so that he doesn't feel like he's wasted his time coming down here. The fact that I don't have a clue has got nothing to do with that (laugh). But I will have Mr. Kemper come up after me.

SENATOR RAIKES: Virgil, one of the things Mr. Kemper talked about the last time he was here was equalization of building needs.

VIRGIL HORNE: Correct.

SENATOR RAIKES: And there is no equalization in here?

VIRGIL HORNE: There is none. This is not...this does not...if you're a, for lack of a better word, property poor school district, if your valuation is not where it needs to be, then you do...it's unequalizing from that standpoint.

SENATOR RAIKES: If the state were going to address the facilities building needs of school districts, you think it should proceed without equalization?

VIRGIL HORNE: I think there's a lot of advantage of having the state play some kind of a part in the process for two reasons. I think, number one, it would protect the state from what I am seeing from other states as a potential real problem with equity and lawsuits. I think the other thing is it would provide local administrators the opportunity to say if we pass this bond issue and it's determined that the building is needed by either an inside our outside source, that it would say, look, yes, it's going to cost you more tax money. But we're going to get some help from the state at the same time. And the bottom line is we all need to

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educate the kids so from that standpoint I think it would work. And that's how I would respond to that question.

SENATOR RAIKES: Okay. Thank you, Virgil.

VIRGIL HORNE: You bet.

SENATOR RAIKES: Other proponents to LB 304?

TIM KEMPER: Chairperson Raikes and members, I'm Tim Kemper, director of finance with Lincoln Public Schools, T-i-m K-e-m-p-e-r, and I would be glad to respond to questions.

SENATOR RAIKES: Okay. Senator Schrock.

SENATOR SCHROCK: Do I need to repeat myself?

TIM KEMPER: No. The current general obligation bond levy for Lincoln Public Schools is about 8 cents per \$100 of valuation.

SENATOR SCHROCK: So your bonded indebtedness for your...to retiring debt on your facilities is about 8 cents.

TIM KEMPER: For the general obligation bonds, which are what built the new high schools and a number of years ago four new elementaries and two middle schools, yes. Now we do also have limited tax obligation debt that is being serviced within that 5.2 cent limit of the Qualified Capital Purpose Undertaking Fund. And I'm so glad that Mr. Inbody made clear that I didn't create that name because it is a mouthful, but the Qualified Capital Purpose Fund we're currently levying less than 3 cents. But there are limited obligation bonds and also, for that matter, qualified zone academy bonds in there so there are a lot of different kinds of bonds. But in terms of what we think of as school bonds, we're at a little over 8 cents.

SENATOR SCHROCK: I'm surprised it's that low. I didn't know with the new schools and so on and so forth. How much does 1 cent raise in Lincoln Public Schools?

TIM KEMPER: About \$1.3 million.

SENATOR SCHROCK: Per year.

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TIM KEMPER: Per year, yeah. Our valuation is right at \$13 billion.

SENATOR SCHROCK: And you just built two new high schools. What was the cost of those schools?

TIM KEMPER: The two together were in the \$90 million range.

SENATOR SCHROCK: And you...

TIM KEMPER: We issued \$90 million in bonds. The construction costs were somewhat more than that because of...

SENATOR SCHROCK: And 8 cents times \$1.3 million so you're getting about \$11 million a year. Okay.

TIM KEMPER: At the time that we passed the bonds, we had projected that the bond levy would be about 12 cents per year. But the valuation growth in Lincoln has been significant. And one of the things that we do in the way that we schedule our bonded indebtedness into the future, we keep the debt service payments, the dollar amount, relatively level year to year so as the valuation grows, the levy actually goes down every year. And it's gone down significantly the last few years.

SENATOR SCHROCK: Thank you.

SENATOR RAIKES: Okay. Any other questions for Tim?

SENATOR SCHROCK: I'm not picking on Lincoln

TIM KEMPER: That's quite all right.

SENATOR SCHROCK: It's just kind of interesting to know how it affects your schools and to give me probably some idea how to fix other schools then also.

TIM KEMPER: Senator Raikes, if I could respond to an earlier question, the reason we thought that it would be appropriate for the Commissioner of Ed to appoint the members is that one of the constitutional provisions, and it's Article VII, Section 4, it does provide that the

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Commissioner of Education shall have such powers and duties as the Legislature may direct. So again, we would defer to legal counsel on whether that's adequate for this purpose.

SENATOR RAIKES: Okay. Comment, if you would, on the notion of equalization in this kind of building support. Here really all...in exchange for getting your 14 cents outside the levy lid, you're willing to go through a certificate of need process.

TIM KEMPER: Correct. But there would be no equalization here other than the inherent equalization that you can get, and I'm not trying to pick any fights, but through the reorganization of school districts, you do get a certain form of equalization and here's why. Two small districts might have widely different valuations per student. And if they both build that building that you, you know, stated hypothetically earlier, one might have to exhibit double the tax effort that the other one did to get the same facility. If those very same two districts are simply merged to build the same amount of educational facility, the rate will be halfway between what the two would have paid and you achieve a crude form of equalization simply by having a larger pool of valuation supporting that building project.

SENATOR RAIKES: But that's presuming some sort of a reorganization occurred.

TIM KEMPER: Exactly, exactly. So...

SENATOR RAIKES: And this would not require...

TIM KEMPER: This would not. And again, Senator, I think it has been true that school districts have long recognized that there is a need to discuss some form of equalized funding for facilities. But we've also watched the Legislature struggle with the issues of how do you do that, particularly in light of ongoing discussions about organizing school districts in Nebraska. So we find ourselves here, I think, today, Senator, looking at various alternatives, some of which contemplate an equalization component, if that's palatable to the Legislature, but also others that are willing to accept that we're not ready to do the equalization component yet. But there are still compelling needs out there that need to be met.

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SENATOR RAIKES: Okay. Any other questions for Tim? Thank you, Tim.

AL INZERELLO: Senator Raikes, members of the committee, Al Inzerello, assistant superintendent at Westside Community Schools. And again, we'd like to thank Senator Schrock for bringing this before the committee and urge your consideration. Again, I'd just like to emphasize the idea of, you know, the building fund. And this also takes it...brings back the discussion about not having to borrow money to complete projects. Initially reading the bill, you know, the local control issue certainly comes to light like, you know, gee, shouldn't...you know, if our board approves it, isn't it good enough? Well, in really thinking it through, I thought, well, you know, that's where it should start. And if we can't make the case with our board that the project is a good project and a needed project, then I guess I'm not at all concerned, you know, about the state committee because we wouldn't bring such a thing for review unless the need were really evident. So, you know, that check in the system I guess might address some reasons for concern from the legislative body years ago, this concept of a commission or some kind of statewide approval for building projects. There was an assumption that there were many unneeded or unwarranted construction projects throughout the state at one time and there should be a review. And I guess with that in light, there should be. So we wouldn't shy away from that kind of oversight at all because we're confident that any project that we would put together is based on a solid need. We wouldn't do that with our own board or our own community to begin with. The 14 cents, that's a shocker. I know, you know, because we've been without that for so long. We were one school district that hadn't had a bond issue in 35 years. And the reason is we did a pay-as-you-go policy. We were able to do a \$3 million project and pay it over time or within a year and then the levy went down. In fact, in my recent memory, even though in the years we had a 14 cent levy authority, we never went beyond 7.2 when the building fund could actually stand 14. So I don't mean to say that in terms of look what Westside did. I mean to say that in terms of school districts across the state had 14 cents of authority. I would think very few ever exercised that full authority because it was based on need and school boards had to make their case locally for

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spending that money. And just as Dr. Horne presented earlier, folks that sit on those elected positions certainly, as you all are very cognizant of the fact of the communities you represent. So I would say thank you again, Senator Schrock, for bringing this topic to the committee. And it is an important topic, but I would say that the school districts, again, do need some flexibility in terms of managing their facilities appropriately without having to borrow money every time, you know, a project, you know, a million dollar roof project for us is a major project. But we should not have to go borrow money in order to get that project done and pay for it over 12 or 16 years. We should be able to pay for it, lower our levy, get it done, and move on. With that, I'll close, Senator. Thank you.

SENATOR RAIKES: Okay. Thank you, Al. Questions for Al? Senator Stuhr has one, Al.

AL INZERELLO: Sure.

SENATOR STUHR: Yes. Do you think that this will be a cumbersome process for schools to have to go through?

AL INZERELLO: Senator, you know, I really can't envision that it would be. It seems like it's a small enough committee. I would think their guidelines would be established. Again, looking at...and I know I'm looking at it selfishly so please bear with me, I know that before our school district would ever submit a project for review at such a committee the need would be unquestionable. So I would feel very confident that we would not...that it would not be cumbersome and hopefully it would be pretty, you know, straight decision, you know.

SENATOR STUHR: Okay, all right, thank you.

AL INZERELLO: Certainly don't want to create another long bureaucratic decision-making process, sure.

SENATOR STUHR: Thank you.

SENATOR KOPPLIN: You mentioned roofing. Would you consider that under like renovation? Is that how you could do roofing?

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AL INZERELLO: Could be, right, Senator, yes. It's a very expensive project where you have to remodel, you know, reinsulate and...

SENATOR KOPPLIN: Rip it off and build over.

AL INZERELLO: Right, right, where it would have to be a complete decking and involved project.

SENATOR RAIKES: Thank you, Al.

AL INZERELLO: Thank you.

MILFORD SMITH: Milford Smith again, M-i-l-f-o-r-d S-m-i-t-h. I'm testifying in favor of this for NCEEA, the organization which I represent. We feel that the building situation in rural Nebraska is such that we would be willing to concede that we go before a committee to argue our point. We think that the 14 cents is a legitimate concern. Many of the school districts, when they do try to attempt to pass a bond, are asking for more than 14 cents. In my particular home district, we passed a bond about six years ago. It was for 18 cents. The Diller Public School District, which Diller and Odell later consolidated, passed one for 18 cents also. And this was only for remodeling, not for a new school. Of all of the bills that were introduced that we're having hearings on today, we would prefer the one where the state partners on an equalization because we think that is the fairest one that's been introduced today. But if I were going to rank them, some of them would rank on a scale of 1 to 10, maybe a 4 and some would rank a 2 or 3. So we do have some that we would prefer to see passed, but we would support this one to be supported by the Legislature as a step in the right direction of addressing the building needs of schools.

SENATOR RAIKES: Thank you, Milford. So on a scale of 1 to 10, 4 is the best we do?

MILFORD SMITH: Pardon?

SENATOR RAIKES: On a scale of 1 to 10, 4 is the best we do?

MILFORD SMITH: That's coming up in the next bill, Senator.

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SENATOR RAIKES: Oh, okay. All right. Any other questions for Milford? Let me ask you this one, and this gets to the next bill. If you either require or give preference to a building project that is associated with the reorganization, is that a problem?

MILFORD SMITH: It is in our organization because we feel, and I'll be quite candid with you, we think that the opposition to the bill which is coming up next with the 390 students is not supportive of our organization. We oppose a number on 390 for schools.

SENATOR RAIKES: Okay. All right, thanks.

JOHN BONAIUTO: Senator Raikes, members of the committee, John Bonaiuto, B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards. We would like to be on record in supporting this bill and would mention that having the state discuss the policy of how the state could participate in working with facilities I think is something that would be advantageous. Knowing that any of the other states, as you look at how they work with school finance, facilities are a part of that equation, and that's something that I think at some point Nebraska could be vulnerable on as we look at the equity issue and what's happening with facilities across the state. And we've got a lot of old facilities and it is an issue. With that, I'll conclude my testimony. Thank you.

SENATOR RAIKES: Okay, John. I don't see any questions. Thank you, John. Other proponents, LB 304? Are there opponents, LB 304? Neutral testimony? Senator Schrock.

SENATOR SCHROCK: I'm in deep enough. I waive.

SENATOR RAIKES: All right.

SENATOR BYARS: We will now hear LB 717 presented by Senator Raikes. Anyone wishing to testify in favor move up to the front of the room if you would like. Welcome to the Education Committee, Senator Raikes.

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LB 717

SENATOR RAIKES: Thank you, thank you. That sure helps.

SENATOR BYARS: You may open on LB 717.

SENATOR RAIKES: Senator Byars and members of the committee, Ron Raikes, District 25, here to introduce LB 717. Much of the discussion that I think is needed as introduction to this sort of a proposal has already...you've already heard it. So let me add a couple of things. The general issue of what it is that provides a student an equal educational opportunity, and certainly I think you can argue that access to operational funds which buy teachers and books and all those kinds of things are critically important. I think it's probably harder and harder to defend the notion that you can ignore the facilities or buildings that the students have access to in order to interact with the teachers and all the other educational materials. It's been pointed out in our current arrangement while we equalize operational funding, we don't on the building fund. The building has been regarded as a pretty much a local effort sort of an issue. And not only that, we also have an arrangement in place which you heard quite a bit about whereby operational funding through property taxes is capped. And so to the extent that operational funding rises relative to the levy cap, the opportunity for levying for building purposes within that lid is restricted. So I think the argument has been made that from an equalization standpoint, from a lid standpoint and so on this issue needs to be looked at. And I will tell you that this has been something that I have either come around or gone around on in my time here in the Legislature. When I first began to look at these issues, I just didn't think there was any need to consider state support of building needs of school districts. I thought it was very fine to leave that to local decisions. But certainly there is the case that you can have a district where the valuation per student is such that with a very small levy you can build an equivalent to the Taj Mahal and in another district with a huge levy you can build something that is more nearly equivalent to a Quonset hut. So there is a tremendous difference and an opportune or a lack of equal opportunity I guess I should say. What this bill does is try to combine several of the ideas that we've heard up to now. There would, in fact, be a certificate of need. There would be a focus on reorganization districts. Now I'm not telling you that this has got to be the final answer,

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that you can only consider state support of building needs if there is a reorganization. I happen to think that that's an urgent need. In a question earlier, I tried to emphasize that by pointing out what appear to be situations where you get schools involved in consolidation wars, so to speak, by building buildings, hoping that if they build a nicer building in the district next door that when the time comes they'll win the battle. It seems to me that that's an unwise use of taxpayer funds and probably, at least given the money spent, doesn't create the educational opportunities that it could. So there's a focus here on educational or on reorganized districts. The fund-raising mechanism here is through the local effort rate. If you look at the last page of the summary that Tammy has prepared, in effect what we would do would be to raise the local effort rate for three years in a row and whatever money the state saved by doing that, we would put into a fund which would be used then to support these building projects. The support would go out in an equalized fashion. There is a, as I mentioned earlier, a certificate of need. I will tell you that my thinking about this, one of the problems you encounter here, and I'm sure you'll think of others that I have not thought of, is that you've got, say if you focus on reorganizing districts, if you raise the local effort rate for all districts, you've got districts that are unlikely to be involved in reorganization that are helping fund building projects in districts that, for example, you may argue that, well, a Class V district is going to be contributing to this fund when it is very unlikely that they would have a reorganizing district. There are some ways to get around that and one of them would be to give a preference through the amount of funding to reorganizing districts, but yet allow districts that are not reorganizing but yet have building projects that pass muster in terms of certificate of need be able to collect from this fund, albeit at a somewhat lower rate. I don't think I...I hope I explained the basic elements of this. I don't want to bore you with much more repetition. I hope you will seriously consider this and that we can have a discussion as to where we might go.

SENATOR BYARS: Thank you, Senator Raikes. Any questions?
Senator McDonald.

SENATOR McDONALD: Senator Raikes, on page 2 and it

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continues on page 3, Section 2, number (9) there on line 25 and continues then on page 3, we talk about...looking at line 3: membership report of at least three hundred ninety students in kindergarten through grade twelve and a predicted enrollment of at least three hundred ninety students in kindergarten through grade twelve each year for the next ten years if at least one of the Class II or III school districts had a fall enrollment using the most recent fall membership report of less than that amount. So you're saying that if they consolidate to 390 students and they're not projected to keep at least 390 students for the next ten years, then they don't qualify for any reorganization building funds.

SENATOR RAIKES: Yes.

SENATOR McDONALD: And the predictions into the future come from...I mean who predicts into the future ten years?

SENATOR RAIKES: That would be...this is the commission that would do this sort of thing, maybe not, maybe the department I guess. Well, the department is, in effect, staffing the commission I think is what, yeah.

SENATOR McDONALD: So what if they predicted wrong and they said, yes, they would but they didn't have that many kids? Would they still continue with the money? I mean...

SENATOR RAIKES: Yes.

SENATOR McDONALD: ...they wouldn't have to pay it back.

SENATOR RAIKES: Yes, right, yes. The prediction would be made in good faith. But if it's not accurate, you know. The decision would be made on a prediction made in good faith and the decision then, once taken, would be honored.

SENATOR McDONALD: Okay.

SENATOR BYARS: Any other questions of Senator Raikes? If not, thank you very much, Senator. Proponents for LB 717. Anyone in favor of LB 717? Nobody...yes, we have somebody testifying in favor. Miracles happen, Senator. Welcome.

BRIAN HALE: Thank you. We had to be in favor of a Raikes

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bill this session so...no, that's not (laugh).

SENATOR BYARS: With that you better identify yourself.

BRIAN HALE: My name is Brian Hale, H-a-l-e, from the Nebraska Association of School Boards. We see this bill as something that has a lot of good things to talk about, to think about. It's a work in progress--390, once again, is somewhat of a number that makes some mathematical sense, but whether or not it does in all of the diverse corners of the state we're not sure where needs might exist. But we certainly think that the notion of coming up with some method by which to finance these programs are important. Just as the entire discussion this afternoon has gone on, there certainly needs to be a way in which boards can address the facility needs throughout the state. And we certainly see this as another idea that's worthy of consideration in the big debate.

SENATOR BYARS: Thank you very much. Questions or comments? If not, thank you for your testimony. Next proponent. Any other proponents? We'll now take opponent testimony. Anyone opposed to LB 717? Anyone opposed? Is there anyone testifying neutral on LB 717? Welcome, Milford.

MILFORD SMITH: Thank you, Senator Byars and the rest of the Education Committee and the chairman. I'm testifying in opposition to this bill. Our main concern is with the number 390 students. We feel that there are existing school districts that are viable school districts that do not have that number that could certainly use some facilities now or in the future. We think that this is a step in the right direction towards having state-funded facilities, and we're willing to concede to having a commission to oversee some of it. These are the practices that are taking place in other states that do have facilities state-funded, but we do oppose the number 390. And, Senator Raikes, this bill rates a 4 on our scale so.

SENATOR BYARS: Thank you, Mr. Smith. Senator Schrock.

SENATOR SCHROCK: What number is satisfactory, because 390 is 30 times 13 I believe. Would 25 would be...end up with 325, would that be...

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MILFORD SMITH: Well, the argument that I have heard on where 390 comes from states that 15 students in a class, 13 classes times 2 equals 390. Now that's what I have heard, and I presume that's where that 390 comes from. We think that there are school districts that have less than 390 that maybe have 15 times 13 that are doing an adequate job of providing education in Nebraska. I agree you can get too small, just as I think you can probably get too big to provide adequate education.

SENATOR SCHROCK: Well, then we're just haggling over the amount then.

MILFORD SMITH: We're haggling over numbers is correct.

SENATOR SCHROCK: What number...throw out a number that this committee could...that would be acceptable to you.

MILFORD SMITH: I'll tell you what our organization and what I personally believe that if you get too small of a number of students to adequately provide a quality education, then you'd ought to look at some closure, consolidation or so forth. There's probably a magic number in there, but I don't know what it is. But I do know that it takes a certain number of students to meet Rule 10 accreditation and will take a certain number of students to meet the new standards of essential skills. And our position has always been that we think it ought to be a state mission to determine what the essential skills are. Then they'd ought to determine how they're going to get the funding for it and how it's going to be distributed in an equitable manner. I will concede to you that if there's only three or four kids in a class or if there's maybe only ten in a class where you cannot have enough students to meet Rule 10 accreditation perhaps then you're too small. But we also would like the Legislature to concede that there is a necessary funding method in there to provide that necessary education and would expect it to come from some state funds.

SENATOR SCHROCK: The nice thing about only two people in a class would be you'd be assured of being the salutatorian.
(Laughter)

MILFORD SMITH: Well, you'd hope so.

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SENATOR BYARS: Thank you, Senator Schrock. Senator Raikes.

SENATOR RAIKES: Different, well, same numbers question, should there be a different number for standards sparse and very sparse? Would the standard number be... would 390 be okay for standard systems but not for sparse and very sparse?

MILFORD SMITH: No, because you're still meeting the same requirements whether you're sparse, standard or very sparse. You still have the same accreditation requirements. And I feel personally it takes a certain number of students and a certain number of teachers and a certain amount of money to provide those essential skills. And that's what the state ought to look at rather than a number, a minimum number of students. Now if you would look at what you want all those kids to know and how many kids do you have to have to get that high school and have those teachers provide that stuff, then you may come up with a magic number, but I don't think it's 390. I think it could probably be closer to half of 390. Because if you're talking 15 students in a class and using the term that was given here in the testimony, I believe it was "pitiography" or something like that one time, Senator Byars, to reach the students using that methodology on a ratio of 1 to 15 is a very good educational system. And we would argue that there are probably schools in Nebraska that have more than 15 or 20 kids in a class, maybe as many as 30, and we would argue that probably a 15 to 1 ratio would benefit those students just as well as they do in rural schools and would have no objection to funding them on that basis.

SENATOR BYARS: Thank you, Mr. Smith. Any other questions of the committee? Thank you for your testimony. Anyone else in opposition to LB 717? Anyone testifying neutral? Welcome.

MATT BLOMSTEDT: Good afternoon again, Senator Byars and members of the committee. My name is Matt Blomstedt, B-l-o-m-s-t-e-d-t. I'm the executive director of NRCSA. I couldn't decide if we were a negative proponent or a positive opponent or, well, I figured neutral sounds pretty good. There's elements of this concept that I think are very good. Number one, when you look at reorganization and reorganization incentive across the state, typically our

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approach has been to say we're going to give you x number of dollars to try to accomplish something. I've worked on several different issues with community working on reorganization in my past history, and so often facilities are a major part of that conversation. So I'm very attracted to the concept of using some type of building assistance, I guess, in a reorganization. So I think that would be something very worthwhile to go ahead and explore in more detail. I look at the concepts of 390, I think one of the issues that I see in the bill is the consistency perhaps with sparse and very sparse. You might say some, I mean if you're going to pick a number, whatever that number happened to be, you probably need to explore sparse and very sparse in a little bit different fashion because if they are sparse and very sparse, maybe they wouldn't have to meet that ten-year criteria or some other type of criteria. So I think, you know, that's an element that definitely could be explored. I think as you look at making sure that the facilities are meeting the needs of students in those places that's extremely important. I think I witnessed reorganizations across the state before where they're desperately in need of facilities and nothing came of that. We've also run into scenarios in the state where they've done bond issues as part of their facility...as part of their reorganization and ran into legal issues with that. So I think there are several issues to explore around reorganization and facilities. And ultimately, I mean, you take the bigger picture approach, ultimately facilities as a whole I think there is some type of need for some type of aid program there so. With that, I'd end my testimony and respond to questions.

SENATOR BYARS: Thank you, Matt. Any questions by members of the committee? If not, thank you for your testimony.

MATT BLOMSTEDT: Thank you.

SENATOR BYARS: Anyone else testifying neutral on LB 717? None testifying neutral, do you care to close? Senator Raikes waives closing. That closes the hearing on LB 717, closes the hearing for today and thank you all for coming and testifying, appreciate it.